IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

Crl.Rev.Pet.No. 3460 of 2007()

CRA.47/2005 of ADDL. SESSIONS COURT (ADHOC)-II, KALPETTA
CC.60/2002 of JUDL. MAGISTRATE OF FIRST CLASS-II, SULTHAN BATHERY

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REVN. PETITIONER: REVISION PETITIONER/APPELLANT/ACCUSED

SAJI, S/O MATHEW, AGED 37 YEARS,
VANDANANIKKAL HOUSE, VATTATHANI,
IRULAM AMSOM, DESOM, SULTHAN BATHERY TALUK,
WYNAD DISTRICT.

BY ADV. SRI.N.J.ANTONY

RESPONDENTS: COMPLAINANT/STATE

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1. ASST. SUB INSPECTOR OF POLICE,
KENICHIRA, WYNAD DISTRICT.

2. STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 03/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 3460 OF 2007 B

Dated this the 3rd day of October, 2007

O R D E R

The revision petitioner, who is the sole accused in C.C.No.60/2002 on the file of JFCM-II, Sulthan Bathery, challenges the conviction entered and the sentence passed against him for offences punishable under sections 341, 354 and 506(i) IPC.

2. The case of the prosecution can be summarised as follows:-

On 22.2.02 at about 6 p.m. while 17 year old defacto complainant(PW1-Aji) was returning home after collecting water from a well near to her house at Paplassery, the accused caught hold of her hand and wrongfully restrained her and squeezed her breast and threatened that if she disclosed this to anybody she would be done away with. The accused has thereby committed offences punishable under sections 341, 354 and 506(i) IPC.

3. On the accused pleading not guilty to the charge framed against him by the trial court, the prosecution was permitted to adduce evidence in support of its case. The

prosecution altogether examined 5 witnesses as PWs 1 to 5 of whom PW1 is the defacto complainant. The prosecution got marked 2 documents as Exts.P1 and P2.

4. The accused denied the incriminating circumstances put to him by the trial court and maintained his innocence. He did not adduce any defence evidence when called upon to do so.

5. The learned Magistrate after trial, as per judgment dated 13.1.05 found the revision petitioner guilty of the offences charged against him and sentenced him to simple imprisonment for one month under section 341 IPC, simple imprisonment for one year each under sections 354 and 506(i) IPC with a direction that the substantive sentences shall run concurrently.

6. On appeal preferred by the revision petitioner before the Sessions Court, Kalpetta, the Additional Sessions Judge, Adhoc-II, Kalpetta, as per judgment dated 28.2.07 confirmed the conviction but modified the sentence reducing the imprisonment under sections 354 and 506(i) IPC to six months. It is the said judgment which is assailed in this revision.

7. Eventhough the learned counsel appearing for the revision petitioner assailed the conviction entered and the

sentence passed against him, in as much as the conviction recorded against the revision petitioner is after an anxious evaluation of the oral and documentary evidence in the case, this court, sitting in the rarefied revisional jurisdiction, will be loathe to interfere with the said conviction, which is accordingly confirmed.

8. What now survives for consideration is the adequacy or otherwise of the sentence imposed on the revision petitioner. Having regard to the fact that there was some enmity between the parties and having further regard to the fact that the courts below have been insensitive to section 357 Cr.P.C. providing compensation to victims of crime, I do not think that the revision petitioner deserves penal servitude by way of incarceration. I am of the view that interests of justice will be adequately met by imposing an appropriate fine and directing payment of compensation to PW1, the victim. Accordingly, the sentence imposed on the revision petitioner is set aside and he is sentenced to pay a fine of Rs.3,000/- (Rupees three thousand only) under section 341 IPC, a sum of Rs.5,000/- (Rupees five thousand only) each under sections 354 and 506(i) IPC respectively. On default to pay the fine of Rs.3,000/-, he shall suffer simple imprisonment

for one month and on default to pay the fine of Rs.5,000/-, he shall suffer simple imprisonment for two months. The fine amount shall be remitted before the trial court within 45 days from today. From out of the fine amount, a sum of Rs.10,000/- (Rupees ten thousand only) shall be paid to PW1, the victim by way of compensation under section 357(1) Cr.P.C.

This revision is disposed of as above.

Issue copy today itself.

(V. RAMKUMAR, JUDGE)

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